

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 31, 2004

Regulation Package #0503-12

CDSS MANUAL LETTER NO. CCL-04-20

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 5, GROUP HOMES

Regulation Package #0503-12**Effective 9/15/04****Sections 84072, 84172, and 84272**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/GroupHomes_631.htm.

These Community Care Licensing Division regulations incorporate certain provisions of Assembly Bill 899 (Chapter 683, Statutes of 2001) in all children's residential programs including group home, small family home and community treatment facility regulations by amending specific foster youth personal rights regulations in the California Code of Regulations, Title 22, Division 6, Chapter 1, General Licensing Requirements; Chapter 4, Small Family Home Regulations; Chapter 5, Group Home Regulations, Chapter 5, Subchapter 1 - Community Treatment Facility Regulations; and Chapter 5, Subchapter 2 - Care for Children Under the Age of Six Years.

These regulations were considered at the Department's public hearing held on September 17, 2003.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-04-19. The latest prior manual letter containing Group Homes regulation changes was Manual Letter No. CCL-03-10.

Page(s)**Replace(s)**

45 through 48
94 and 95
98 through 105
134 and 135

Pages 45 through 48
Pages 94 and 95
Pages 98 through 105
Pages 134 and 135

Attachments

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**84070.1 ADDITIONAL CHILDREN'S RECORDS FOR SPECIALIZED
GROUP HOMES (Continued)****84070.1**

- (3) A copy of the written reassessment of the child's individualized health care plan as specified in Section 84069.2(b).
- (b) The licensee of a group home caring for children with special health care needs placed on or after January 1, 1992, shall ensure that:
 - (1) The needs and services plan for each child in the home documents the determinations required by Section 84010.1(a)(2)(C).
 - (2) For each child with special health care needs placed on or after January 1, 1992, the child's records contain the following:
 - (A) In the child's needs and services plan, a description of the emergency necessitating that the child be placed in the group home and a written plan of relocation specifying the arrangements for subsequent placement in a less restrictive setting as required by Section 84010.1(a)(2)(B); and
 - (B) In the child's admission agreement,
 - 1. If the 120 calendar day limitation period specified in Section 84010.1(a)(2)(A) has not been exceeded, the number of calendar days the child may remain in the group home without exceeding the limitation period; or
 - 2. If the 120 calendar day limitation period has been exceeded, the number of calendar days the child may remain in the group home as stated in the extension approved under Section 84010.1(a)(2)(A)1.
 - a. The child's records shall also contain a copy of the letter from the Director or his/her designee approving the extension.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 17710(a), 17731(c) and 17732(d) and (e), Welfare and Institutions Code and Section 1531, Health and Safety Code.

84072 PERSONAL RIGHTS**84072**

- (a) Each facility licensed to provide foster care for six or more children shall post a listing of a foster child's rights.
- (b) Each facility shall provide each school age child, who is placed in foster care, and his or her authorized representative with an age and developmentally appropriate orientation that includes an explanation of the rights of the child and addresses the child's questions and concerns.
- (c) At admission, each child, and his/her authorized representative, shall be personally advised of and given a copy of the child's rights as specified below:
 - (1) To visit the facility with his/her relatives and/or authorized representative(s) prior to admission.
 - (2) To file a complaint with the facility, as specified in Section 84072.2.
 - (3) To have the facility inform his/her authorized representative(s) of his/her progress at the facility.
 - (4) To have communications to the facility from his/her relatives and/or authorized representative(s) answered promptly and completely.
 - (5) To have visitors visit privately during waking hours without prior notice, provided that such visitations are not prohibited by the child's needs and services plan; do not infringe upon the rights of other children; do not disrupt planned activities; and are not prohibited by court order or by the child's authorized representative(s).
 - (A) Rules regarding visitation hours, sign-in rules and visiting rooms can be established but shall apply to all visitors.
 - (B) Visits by the child's brothers and sisters can only be prohibited by court order.
 - (6) To wear his/her own clothes.
 - (7) To possess and use his/her own toilet articles.
 - (8) To possess and use his/her own cash resources except as specified in Section 84026, and to maintain an emancipation bank account and manage personal income consistent with the child's age and developmental level, unless prohibited by the case plan.
 - (9) To possess and use his/her own personal items unless prohibited as part of a discipline program.

84072 PERSONAL RIGHTS (Continued)**84072**

- (10) To have access to individual storage space for his/her private use.
- (11) To make and receive confidential telephone calls, unless prohibited by court order.
 - (A) Reasonable restrictions to telephone use may be imposed by the licensee. The licensee shall be permitted to:
 - 1. Restrict the making of long distance calls upon documentation that requested reimbursement for previous long distance calls has not been received;
 - 2. Restrict phone use in accordance with the facility's discipline program;
 - 3. Impose restrictions to ensure that phone use does not infringe on the rights of others or restrict the availability of the phone during emergencies.
 - (B) All restrictions shall be documented in the child's needs and services plan or the facility's discipline policies, and be signed by the child's authorized representative.
 - (C) Calls permitted to be restricted by subsections (A)1. and 2. above shall not include calls to the child's authorized representative, placement agency, family members (except by court order), social workers, attorneys, Court Appointed Special Advocates (CASA), probation officers, Community Care Licensing Division of the California Department of Social Services or the State Foster Care Ombudsperson.
- (12) To send and receive unopened correspondence unless prohibited by court order.
- (13) To be accorded dignity in his or her personal relationships with staff and other persons.
- (14) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
- (15) To be free from physical, sexual, emotional, or other abuse, and corporal punishment.
- (16) To receive adequate and healthy food, adequate clothing, and an allowance.
- (17) To receive medical, dental, vision, and mental health services.
- (18) To be free of the administration of medication or chemical substances, unless authorized by a physician.

84072 PERSONAL RIGHTS (Continued)**84072**

- (19) To contact family members (including brothers and sisters), unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
- (20) To contact the Community Care Licensing Division of the California Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.
- (21) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.
- (22) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (23) To not be locked in any room, building, or facility premises at any time.
 - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
 - (B) The license shall be permitted to utilize means other than those specified in (A) above for securing exterior doors and windows only provided the clients are able to exit the facility and with the prior approval of the licensing agency.
- (24) To attend school and participate in extracurricular, cultural, and personal enrichment activities consistent with the child's age and developmental level.
- (25) To work and develop job skills at an age-appropriate level that is consistent with state law.
- (26) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
- (27) To attend Independent Living Program classes and activities if he or she meets age requirements.
- (28) To attend hearings and speak to the judge.

84072 PERSONAL RIGHTS (Continued)**84072**

- (29) To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
- (30) To be free of unreasonable searches of personal belongings.
- (31) To confidentiality of all juvenile court records consistent with existing law.
- (32) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (A) through (F) below.
 - (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.
 - 1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.
 - (B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
 - (C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the child.
 - (D) The licensing agency shall approve the use of postural supports only after the appropriate fire clearance, as required by Section 80020(a) or (b), has been secured.
 - (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.
 - (F) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a child's hands or feet.
 - 1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior licensing approval. Bed rails that extend the entire length of the bed are prohibited.

84072 PERSONAL RIGHTS (Continued)**84072**

- (G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
 2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (H) Under no circumstances shall postural supports or protective devices be used for disciplinary purposes.
- (d) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.91, and 1531, Health and Safety Code; and Section 16001.9, Welfare and Institutions Code.

84072.1 DISCIPLINE POLICIES AND PROCEDURES**84072.1**

- (a) The licensee shall develop, maintain and implement written facility discipline policies and procedures meeting the requirements specified in (b) and (c) below.
 - (1) Staff, children, and authorized representatives shall receive copies of such policies and procedures, as specified in Section 84065(o) and 84068.1(b)(4)(B).
 - (2) Signed copies of such policies and procedures shall be maintained in the child's record, as specified in Section 84070(c)(2).
- (b) Any form of discipline which violates a child's personal rights as specified in Sections 80072 and 84072 shall be prohibited.
- (c) Acceptable forms of discipline shall include the following:
 - (1) Exclusion in an unlocked living, sleeping, or play area.
 - (2) Institution of fines as specified in Section 84026(b).
 - (3) Prohibition against attendance at or participation in planned activities.
 - (4) Prohibition against use of entertainment devices including but not limited to telephones, televisions, radios and phonographs.

84072.1 DISCIPLINE POLICIES AND PROCEDURES
(Continued)**84072.1**

- (5) Performance of additional duties related to training needs identified in the child's needs and services plan.
- (6) Any other form of discipline approved in writing, in advance by the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84072.2 COMPLAINT PROCEDURES**84072.2**

- (a) The licensee of a group home shall develop, maintain and implement written complaint procedures by which children or their authorized representatives are permitted to file complaints, without fear of retaliation, with the facility administrator regarding facility staff or operations.

HANDBOOK BEGINS HERE

Children and/or their authorized representatives may file complaints with the licensing agency.

HANDBOOK ENDS HERE

- (1) Staff, children, and authorized representatives shall receive copies of such procedures, as specified in Sections 84065(o) and 84068.1(b)(4)(B).
- (2) Signed copies of such procedures shall be maintained in each child's record, as specified in Section 84070(c)(2).
- (3) Such procedures shall be posted in a location in the facility which is accessible to children and their authorized representatives.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

84170 CHILDREN'S RECORDS
(Continued)**84170**

HANDBOOK BEGINS HERE

(A) California Code of Regulations, Title 9, Section 1927(a) states:

"(a) The certificate holder of a CTF shall ensure that the required child facility records are kept on each child residing within the facility. Required child facility records include:

- "(1) A signed and dated copy of the interagency placement committee's placement authorization letter from the child's county of residence;
- "(2) Documentation of the child's and his parents' or conservator's voluntary consent to treatment, when applicable;
- "(3) The intake report;
- "(4) The admission assessment;
- "(5) A psychiatric evaluation;
- "(6) A needs and services plan;
- "(7) Daily progress notes;
- "(8) Monthly clinical review reports;
- "(9) Written informed consent by the child for prescribed psychotropic medication, and, when applicable, by the parents, conservator or judge pursuant to Section 851 of Chapter 4;
- "(10) A copy of the court order for conservatorship if the child is conserved;
- "(11) A copy of the administrative hearing ruling if the child contested placement and a pre-admission administrative hearing was held or a copy of the form waiving this right signed by the child;

HANDBOOK CONTINUES

84170 CHILDREN'S RECORDS
(Continued)**84170**

HANDBOOK CONTINUES

"(12) A discharge summary;

"(13) A discharge report."

"(14) A Welfare and Institutions Code Section 6552 order if the child is a ward or dependent of the court."

HANDBOOK ENDS HERE

- (3) A copy of a child's request for release and any notification documents to the superior court as specified in Section 84172(c).

NOTE: Authority Cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

84172 PERSONAL RIGHTS**84172**

- (a) Sections 80072 and 84072 are not applicable to community treatment facilities.
- (b) The licensee shall ensure that every child admitted to a community treatment facility is informed and afforded the personal rights as specified in Sections 5325, 5325.1, 5325.2, 5326, and 16001.9 of the Welfare and Institutions Code; Section 1530.91 of the Health and Safety Code; Sections 862 through 865 and 867 of the California Code of Regulations, Title 9, Chapter 4; and Sections 1934, 1935, 1936, and 1937 of the California Code of Regulations, Title 9, Chapter 11.

84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

"It is the intent of the legislature that persons with mental illness shall have rights including, but not limited to, the following:

- "(a) A right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.
 - "(b) A right to dignity, privacy, and humane care.
 - "(c) A right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.
 - "(d) A right to prompt medical care and treatment.
 - "(e) A right to religious freedom and practice.
 - "(f) A right to participate in appropriate programs of publicly supported education.
 - "(g) A right to social interaction and participation in community activities.
 - "(h) A right to physical exercise and recreational opportunities.
 - "(i) A right to be free from hazardous procedures."
- (3) Welfare and Institutions Code Section 5325.2 states:

"Any person who is subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15 shall have the right to refuse treatment with antipsychotic medication subject to provisions set forth in this chapter."

HANDBOOK CONTINUES

84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

- (4) Welfare and Institutions Code Section 5326 states:

"The professional person in charge of the facility or his or her designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivision (g) and (h) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of Mental Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record."

- (5) Welfare and Institutions Code Section 16001.9 states:

- (a) It is the policy of the state that all children in foster care shall have the following rights:
- (1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
 - (2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
 - (3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
 - (4) To receive medical, dental, vision, and mental health services.
 - (5) To be free of the administration of medication or chemical substances, unless authorized by a physician.
 - (6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
 - (7) To visit and contact brothers and sisters, unless prohibited by court order.
 - (8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

HANDBOOK CONTINUES

84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

- (9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
- (10) To attend religious services and activities of his or her choice.
- (11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
- (12) To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.
- (13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.
- (14) To work and develop job skills at an age-appropriate level that is consistent with state law.
- (15) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
- (16) To attend Independent Living Program classes and activities if he or she meets age requirements.
- (17) To attend court hearings and speak to the judge.
- (18) To have storage space for private use.
- (19) To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
- (20) To be free from unreasonable searches of personal belongings.
- (21) To confidentiality of all juvenile court records consistent with existing law.

HANDBOOK CONTINUES

84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

- (b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placements.
- (6) Section 1530.91 of the Health and Safety Code states:
- (a) Except as provided in subdivision (b) any care provider that provides foster care for children pursuant to this chapter shall provide each school age child and his or her authorized representative, as defined in regulations adopted by the department, who is placed in foster care, with an age and developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in Section 16001.9 of the Welfare and Institutions Code, and addresses the child's questions and concerns.
- (b) A facility licensed to provide foster care for six or more children pursuant to this chapter shall post a listing of a foster child's rights specified in Section 16001.9 of the Welfare and Institutions Code. The office of the State Foster Care Ombudsperson shall design posters and provide the posters to each facility subject to this subdivision. The posters shall include the telephone number of the State Foster Care Ombudsperson.
- (7) California Code of Regulations, Title 9, Section 862 states:
- "(a) A list of the rights set forth in Section 5325 of the Welfare and Institutions Code and in Section 861, as well as the complaint procedure, prescribed in Section 864, shall remain posted, in English and Spanish, in all wards and common living areas of facilities specified in Section 860.
- "(b) Each person admitted to a facility specified in Section 860 shall be personally notified of his rights in writing, in language he can understand, or shall have his rights brought to his attention by other means if he is unable to read or understand the information provided him.
- "(c) A notation to the effect that notification, or an attempt to provide notification, has occurred, shall be entered in the patient's/resident's record within 24 hours of admission."

HANDBOOK CONTINUES

84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

(8) California Code of Regulations, Title 9, Section 863 states:

- "(a) The 'Patients' Rights Specialist' means the person in the Headquarters Office of the Department of Health delegated the responsibility for ensuring that mentally and developmentally disabled persons in facilities providing mental health services or residential care are afforded their statutory and constitutional rights.
- "(b) The 'Patients' Advocate' means the person in a local mental health program delegated the responsibility for ensuring that mentally disabled persons in facilities specified in Section 860 are afforded their statutory and constitutional rights.
- "(c) The Residents' Advocate' means the persons in a regional center program delegated the responsibility for ensuring that developmentally disabled residents in facilities specified in Section 860 are afforded their statutory and constitutional rights."

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84172 PERSONAL RIGHTS
(Continued)**84172**

HANDBOOK CONTINUES

(9) California Code of Regulations, Title 9, Section 863.1 states:

- "(a) Each county mental health director shall assign a Patients' Advocate to handle complaints of mentally disabled patients and residents regarding the abuse, unreasonable denial, or punitive withholding of a right guaranteed under Section 861 of this article. Each regional center director shall assign a Residents' Advocate to handle similar complaints from developmentally disabled residents. If the person assigned to handle complaints is a member of the staff of a particular facility, he shall not be involved in the direct supervision of patients or residents of that facility.
- "(b) The appointment of a Patients'/Residents' Advocate in a state hospital, as well as the complaint procedure to be observed there, shall be in accordance with Department of Health directives on the patient's rights program for state hospitals."

(10) California Code of Regulations, Title 9, Section 863.2 states:

- "(a) The Patients'/Residents' Advocate shall:
- "(1) Ensure that the rights listed in Section 5325 of the Welfare and Institutions Code and in Section 861 remain posted in all facilities where posting is required pursuant to Section 860.
- "(2) Ensure that all incoming patients/residents are notified of these rights.
- "(3) Assist in training staff of facilities specified in Section 860 regarding patients'/residents' rights.
- "(4) Investigate complaints of patients/residents or their responsible relatives, and, if necessary, act as advocate for patients/residents.
- "(5) Act as advocate in behalf of patients/residents who are unable to register a complaint because of their mental or physical condition.
- "(6) Act as local consultant in the area of patients'/residents' rights.
- "(7) Act as liaison to the Patient Rights Specialist, Department of Health."

HANDBOOK CONTINUES

84172 PERSONAL RIGHTS
(Continued)**84172**

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(11) California Code of Regulations, Title 9, Section 865 states:

"(a) (Reserved)

"(b) 'Professional person in charge of the facility' is defined in Section 822 of this Chapter, Title 9, California Administrative Code; in community care facilities it is the administrator of the facility. Prior to denying the rights, as listed in Section 861, of a resident for good cause, the administrator of a community care facility shall first obtain concurrence from the resident's physician or social worker that good cause for denial exists.

"(c) Notwithstanding the provisions of this article, good cause denial of that right listed under subdivision (f) of Section 5325 shall be in accordance with the provisions set forth in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code, as interpreted by court decision.

"(d) Any person who has the lawful right on his own choice to discharge himself from a facility shall be informed of said right at the time of admission to the facility. If the person elects to discharge himself from the facility rather than voluntarily accepting any denial of his rights, such election shall be documented in this treatment record, and the person shall be permitted to leave the facility."

(12) California Code of Regulations, Title 9, Section 867 states:

"Information in a patient's/resident's treatment record pertaining to a denial of a right shall be available on request to the child, his attorney/conservator/guardian, the Department of Health, a member of the State Legislature, or a member of a county board of supervisors."

(13) California Code of Regulations, Title 9, Section 1934 states:

"(a) The rights listed in subsection (a) through (e) of Section 5325 of the Welfare and Institutions Code, and the right to participate in daily outdoor activities, weather permitting, may be denied a child in a CTF only upon the failure of all other means taken to resolve the behavior necessitating denial.

"(b) Agreements and negotiations between the child, administrator and social worker shall be the primary means of resolving problems regarding the rights of the child.

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84172 PERSONAL RIGHTS
(Continued)**84172**

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"(c) If a CTF, after complying with subsections (a) and (b) of this section, wishes to deny one or more of the rights delineated in subsection (a), the procedures outlined in Section 1935 must be followed."

| (14) California Code of Regulations, Title 9, Section 1935 states:

"(a) The rights delineated in Subsection (a) of Section 1934 may be denied only for good cause. Good cause for denying a child a right exists when the professional person in charge of a CTF or his designee has good reason to believe:

"(1) That the exercise of the specific right would be injurious to the child;

"(2) That there is evidence that the specific right, if exercised, would seriously infringe on the rights of others;

"(3) That the facility would suffer serious damage if the specific right is not denied; and

"(4) That there is no less restrictive way of protecting the interests specified in (1), (2), or (3).

"(b) The reason used to justify the denial of a right to a child must be related to the specific right denied. A right shall not be withheld or denied as a punitive measure, nor shall a right be considered a privilege to be earned.

"(c) Treatment modalities shall not include denial of any right specified in Section 1931. Waivers signed by the child, parent, conservator or person appointed by the court to manage the placement shall not be used as a basis for denying rights prescribed in Section 1931 in any treatment modality."

| (15) California Code of Regulations, Title 9, Section 1936 states:

"(a) Each denial of a child's right shall be noted in his facility record. Documentation shall take place immediately whenever a right has been denied. The notation shall include:

"(1) Date and time the right was denied;

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84172 PERSONAL RIGHTS
(Continued)**84172**

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- "(2) Specific right denied;
- "(3) Good cause for denial of the right;
- "(4) Date of review if denial was extended beyond 30 days;
- "(5) Signature of the professional person in charge of the facility or his designee authorizing denial of the right.

"(b) The child shall be told of the content of the notation.

"(c) Each denial of a right shall be documented regardless of the gravity of the reason for the denial or the frequency with which a specific right is denied in a particular facility or to a particular child."

| (16) California Code of Regulations, Title 9, Section 1937 states:

- "(a) A right shall not continue to be denied a child when the good cause for its denial no longer exists. When a right has been denied, staff shall employ the least restrictive means of managing the behavior problem which led to the denial. The date a specific right is restored shall be documented in the child's facility record.
- "(b) A child who has been denied a patients' right shall have the good cause for this denial reviewed every five (5) days after the denial by a CTF mental health program director or his designee. This review shall result in either the restoration of right to the child or continuation of the denial due to the determination that good cause for the denial of the right still exists. The results of the review will be documented in the child's facility record."

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84172 PERSONAL RIGHTS
(Continued)**84172**

(c) Every child has a right to a hearing by writ of habeas corpus. The licensee shall develop, maintain and implement written procedures that shall meet the following requirements:

(1) Any member of the facility staff to whom a request is made shall promptly do the following:

(A) Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows:

(Name of the Facility) _____ day of ____ 19

I, _____ (member of the community treatment facility staff) have today received a request for the release of _____ (name of patient) from the undersigned patient on his or her own behalf or from the undersigned person on behalf of the patient.

Signature or mark of patient making request for release

Signature or mark of patient making request for release on behalf of patient

Signature of staff person receiving request for release

- (B) Deliver the completed request form to the Administrator and note the request in the child's facility record.
- (2) Submit the request for release form to the superior court for the county in which the facility is located by the next working day of the request for release.
- (3) Inform the person who admitted the child of the request for release within 24 hours of the request for release.

84172 PERSONAL RIGHTS
(Continued)**84172**

- (4) Maintain a copy of the child's request for release as specified in Section 84172(c)(1)(A) along with notification documents to the superior court in the child's record.
 - (5) The facility's administrator shall ensure that the child is informed as soon as possible of the date, time, and location of the hearing.
 - (6) The child shall be permitted to communicate with counsel confidentially and to prepare for and attend the judicial hearing demanding his or her release.
- (d) The facility's policy concerning family visits and other communications with clients shall be provided as specified in Section 1512 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1512 of the Health and Safety Code states in pertinent part:

Each residential community care facility shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall, except as otherwise provided in this section, promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.9, Health and Safety Code. Reference: Sections 1501, 1530.91 and 1531, Health and Safety Code; and Sections 4096(g), 4094.6, 5275, and 16001.9, Welfare and Institutions Code.

84270 CHILDREN'S RECORDS**84270**

- (a) The licensee or designee shall obtain and maintain the following information in the child's record:
- (1) A recent photograph and physical description of the child.
 - (2) The child's initial and modified needs and services plan.
 - (3) Any prescribed psychotropic medication, including:
 - (A) The name, address, telephone number, and contact date with the physician who prescribed the medication.
 - (B) The dates that the prescribing physician monitors the continuing appropriateness of the psychotropic medication.
 - (4) An assessment of the child's danger to self and others.
 - (5) Daily records of emotional state, dietary patterns, and accomplishments.
 - (6) Social worker notes, e.g., family member contacts, visitations, and legal documentation.
 - (7) The child's scrapbook, reflecting significant events and accomplishments during the placement.
 - (8) The name, address, and telephone number of the involved family member(s), if any.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507, 1530.8 and 1531, Health and Safety Code; and Section 11467.1, Welfare and Institutions Code.

84272 PERSONAL RIGHTS**84272**

- (a) Sections 84072(d)(5), (25), (27), and (29) do not apply to children under six years of age.
- (b) When family member involvement is part of the child's needs and services plan, visiting shall be allowed as indicated in the plan. Visiting does not include the time spent by a minor parent as the primary caregiver for his or her child.
- (1) Visiting shall be only under the supervision of the social work staff, a houseparent or child care worker, or a facility manager, unless the case plan provides for unsupervised visits.
- (c) The licensee shall impose differing visiting rules, depending on the visitor, that person's role in the child's needs and services plan, and the need to protect the child from that person.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.8, and 1531, Health and Safety Code; and Section 11467.1, Welfare and Institutions Code.